

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Basic Capital
DOCKET NO.: 03-24457.001-C-2
PARCEL NO.: 14-21-111-006-0000

The parties of record before the Property Tax Appeal Board are Basic Capital, the appellant, by attorney Dennis M. Nolan of Bartlett and the Cook County Board of Review.

The subject property consists of an 8,640 square foot parcel improved with a four-story hotel containing 52 guest rooms located in Lake View Township, Cook County.

The appellant, through counsel, submitted evidence before the Property Tax Appeal Board arguing that the fair market value of the subject was not accurately reflected in its assessed value. In support the appellant presented an abbreviated form of an income approach to value. The income and expense analysis was prepared by counsel based on the historic income and expenses. For the subject, counsel indicated an annual gross income of \$2,560,000; a deduction of 52%, or \$1,330,000, for vacancy and collection loss; an addition of \$30,000 for telephone and miscellaneous revenues; resulting in an annual effective gross income (EGI) of \$1,260,000. Expenses were estimated to be \$1,014,000 and deducted from the EGI to conclude and estimated annual net operating income (NOI) of \$246,000 for the subject. A capitalization rate of 16%, which includes an effective tax rate, was then applied to the NOI. Counsel's calculations resulted in an estimated market value of \$1,500,000, rounded, for the subject. In addition, counsel applied the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a, to determine an estimated total assessment of \$570,000. A copy of the subject's 2003 board of review final decision indicating the subject's final assessment of \$748,484 was included. The subject's final assessment reflects a fair market value of \$1,969,695 when the Cook County Real Property Assessment Classification Ordinance level of assessments of 38% for Class 5a properties such as the subject is applied.

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	119,016
IMPR.:	\$	629,468
TOTAL:	\$	748,484

Subject only to the State multiplier as applicable.

The board of review did not submit its "Board of Review Notes on Appeal" or any evidence in support of its assessed valuation of the subject property. On February 22, 2005, the Cook County Board of Review was notified of the appeal and given until March 24, 2005, to submit evidence or request an extension. The board of review timely requested an extension of time to submit evidence. On March 31, 2005, the Property Tax Appeal Board granted a final extension until June 29, 2005. The board of review did not timely submit its evidence and was notified of its being found in default by letter dated April 9, 2007.

After hearing the testimony and considering the evidence, the Property Tax Appeal Board finds it has jurisdiction over the parties and the subject matter of this appeal. The issue before the Property Tax Appeal Board is the subject's fair market value. Next, when overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2nd Dist. 2000). Having heard the testimony and considered the evidence, the Board concludes that the appellant has not satisfied this burden.

The Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property that accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d at 431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate

through an expert appraisal witness and/or appraisal that the subject's actual income and expenses are reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income reflective of the market and the property's capacity for earning income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant did not provide such evidence; therefore, the Property Tax Appeal Board gives this argument no weight.

The Board further finds problematical the fact that appellant's counsel developed the "income approach" rather than an expert in the field of real estate valuation. The Board finds that an attorney cannot act as both an advocate for a client and also provide unbiased, objective opinion testimony of value for that client's property.

In conclusion, the Property Tax Appeal Board finds that the sale comparables submitted by the board of review, however weak, tend to support the subject's current market value as reflected in its assessment. Therefore, the Board finds that the appellant has not satisfied the burden of proving the value of the property by a preponderance of the evidence and a reduction is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member

Member

Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: February 29, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the

subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.